

CHILDREN AND FAMILIES

DIVISION OF YOUTH AND FAMILY SERVICES

Services for Children in Out-of-Home Placement

Readoption with Amendments: N.J.A.C. 10:122D

Proposed: July 7, 2008 at 40 N.J.R. 3930(a).

Adopted: November 24, 2008 by Kimberly S. Ricketts, Commissioner, Department of Children and Families.

Filed: December 2, 2008 as R.2009, d.5, with technical and substantive changes not requiring additional public notice and comment (N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 30:4C-4(h) and 30:4C-26a.

Effective Dates: December 2, 2008, Readoption;
January 5, 2009, Amendments.

Expiration Date: December 2, 2013.

Summary of Public Comments and Agency Responses:

Comments were received from Ronald K. Chen, Public Advocate; Lorraine M. Augostini, Office of Law Guardian, Office of the Public Defender; Janet Farrand, Foster and Adoptive Family Services; and Ronald K. Chen, Acting Child Advocate.

N.J.A.C. 10:122D-1.1(b)

1. COMMENT: The proposed rule substitutes the word “reunification” for the phrase “return home or permanency with a relative or family friend.” This proposed change is confusing and is also inconsistent with current permanency planning options. The current rule recognizes that meaningful visitation facilitates movement toward permanency for the child that is achieved both through reunification (return home) and through placement with a relative or family friend.

The plain language of the proposed change would cover only those circumstances in which a child is returned to the household from which he or she was removed, and not circumstances in which permanency is pursued with a relative or family friend that the child was not living with at the time of removal.

The Federal Administration for Children and Families refers to traditional definitions of reunification and permanency with relative in its policies and published information. The Division of Youth and Family Services (DYFS) policy clearly establishes that reunification and permanency with a relative or family friend are separate goals and processes. Office of the Child Advocate (OCA) is unaware of any other policy or legal framework, which combines these very different permanency goals and the processes to achieve them and labels them both “reunification.”

RESPONSE: The Division did not intend to disregard the concept of permanency with persons other than those with whom a child lived prior to placement. Since the summarized case goal name of reunification is unclear, the Division is amending the language in the rule to state that visits are beneficial and facilitate movement toward achieving a case goal that establishes permanency. The Division now has 10 case goals that may fit into the circumstances of this section. Stating them in the rule would be superfluous.

2. COMMENT: Nowhere in the proposed rules is it made clear that visitation between children and families, including sibling visitation, is an established statutory right. While visitation rights are not absolute, the statutory protections are significant. See N.J.S.A. 9:6B-1 et seq., Child Placement Bill of Rights Act. Among the articulated rights are the right “[t]o visit with the child’s parents or legal guardian immediately after the child has been placed ...” N.J.S.A. 9:6B-4.f, and the right “[t]o visit with the child’s sibling on a regular basis ...” N.J.S.A. 9:6B-4.f. OCA recommends that the third sentence of N.J.A.C. 10:122D-1.1(b) be amended to remove “professional social work” and add “and consistent with the child’s visitation rights applicable to children in placement as set forth in sections 9:6B-4e and 4f of the Child Placement Bill of Rights Act.”

RESPONSE: The Division does not need to cite each statute that pertains to the Division’s work in rules. The Division believes that the rule is accurate and in compliance with statutes governing the Division as it stands. The Division believes that “a professional social work decision” is a necessary and appropriate part of the rule.

N.J.A.C. 10:122D-1.6

3. COMMENT: Every child who is the subject of a protective service action brought by the New Jersey Division of Youth and Family Services is entitled to legal representation through the Office of the Public Defender’s Office of Law Guardian (OPD). N.J.S.A. 9:6-8.23. In order for the law guardian attorney to carry out his or her statutory mandate to represent the minor-child, it is critical that the law guardian receive all relevant information related to the child-client, including important information concerning the visitation plan developed by the Division on behalf of the parent and child. Therefore the Office of Law Guardian urges that the Division add “the child’s law guardian, if any” to N.J.A.C. 10:122D-1.6, so that the law guardian receives a copy of the visitation plan.

RESPONSE: The Division agrees that it is critical for the law guardian to receive all relevant information related to the child, including the visitation plan for the child and parents. The Division provides the visitation plan to the court in accordance with R. 5:12-3 and 4. The visitation plan is provided to the law guardian by the court as part of discovery. The Division does not need to amend this rule for the law guardian to receive the visitation plan.

N.J.A.C. 10:122D-1.15(a)6

4. COMMENT: Amend this section to add language which makes it clear that any inappropriate behavior that places the child at risk, whether related to alcohol or drugs or otherwise, should serve as a basis for limiting visits.

RESPONSE: The Division believes that it is not necessary to change N.J.A.C. 10:122D-1.15(a)6 to include other inappropriate behavior because paragraph (a)1 already gives the Division the ability to limit visits with the child when the visit will be harmful to the child.

N.J.A.C. 10:122D-2.4(a)4

5. COMMENT: This paragraph addresses status updates and reporting of any progress achieved while out-of-home placement continues. This section is susceptible to the erroneous interpretation that all of the above-named categories of individuals are entitled to the same information. It is important to distinguish between information properly made available to the child, and to the parents, as distinct from information that would be made available to others who have an interest in, but enjoy more circumscribed rights to,

information regarding the progress being made to attain the case goal. OCA recommends adding “consistent with confidentiality provisions set forth in N.J.S.A. 9:6-8.10 limiting the information the Division may disclose” to the end of paragraph (a)4.

RESPONSE: The Division agrees with this comment. The Division follows the statutes and rules related to confidentiality of client information. The Division has added the statutory citation to N.J.S.A. 9:6-8.10a, as suggested by the commenter. In addition, the Division added the regulatory citation to N.J.A.C. 10:133G, Client Information. N.J.A.C. 10:133G is promulgated under the authority of N.J.S.A. 9:6-8.10a. The Division added the regulatory citation as a convenience to the reader.

N.J.A.C. 10:122D-2.5(a)

6. COMMENT: The Department of the Public Advocate and the Office of the Public Defender, Office of Law Guardian, concur that the Division should make every reasonable effort to assure that each child in out-of-home placement receives appropriate and necessary health care, including mental health services. The Office of the Public Defender acknowledges the efforts to ensure that the medical and psychological needs of children in placement are addressed appropriately and timely.

RESPONSE

N.J.A.C. 10:122D-2.5(b)

7. COMMENT: Add a new paragraph (b)6 to include “A record of the dates and results of the child’s capillary and/or venous lead tests” in the child’s health care record.

RESPONSE: The Division agrees to add information about the results of lead tests to N.J.A.C. 10:122D-2.5(b)3 regarding establishing a health care record, as it is important information to give to the out-of-home placement provider.

8. COMMENT: The Office of the Public Defender is concerned about the proposed amendment that requires a pre-placement assessment for each child entering out-of-home placement rather than a medical evaluation at the time of the child's initial entry into placement. While the OPD recognizes that a full medical evaluation will be done within 60 days of the child's placement, they are concerned about who will be responsible for conducting the pre-placement assessment. The proposed changes to this section do not clarify whether a medical doctor or some other health professional, such as the DYFS nurse, will conduct the pre-placement assessments.

Children removed from their homes who may have suffered serious physical or sexual abuse or significant neglect must be seen immediately by a medical doctor to ensure that their medical needs are addressed promptly. Amend subsection (b) to add "the pre-placement assessment *to be completed by a medical doctor* at the time of placement."

RESPONSE: The Division does not agree to accept this comment, as the Division uses a variety of licensed medical professionals to complete the pre-placement assessments, including licensed nurses. If a nurse finds something that a doctor must evaluate, the DYFS worker takes the child for a doctor's examination. In addition, each child entering out-of-home placement is examined by a doctor or by a medical professional under the direct supervision of a doctor within 60 days of placement.

9. COMMENT: OCA proposes the following modifications to 2.5(b):

6. The child's birth and developmental history;
7. Family health history, if known; and

8. The child's mental health needs.

RESPONSE: The Division agrees to include the suggested information in the child's health care record to the extent that it is available to Division staff. The Division agrees that this is information that the out-of-home placement provider generally should have. The Division has added qualifiers to paragraph (b)7, regarding the appropriateness of the out-of-home placement provider having specific information about the family's health history and that this must be consistent with Federal regulations, such as the Health Insurance Portability and Accountability Act of 1996 (HIPAA) regulations, 45 CFR Parts 160 and 164.

The Division is adopting the term "mental/behavioral health" at new paragraph (b)8, as that is the current term of art. This change is also made at N.J.A.C. 10:122D-2.5(a).

N.J.A.C. 10:122D-2.5(c)

10. COMMENT: OCA applauds the Division for continuing the responsibility for maintaining health records. This subsection should be modified to include language providing for periodic updates to the child's health record at scheduled intervals.

It should also be modified to require the Division to provide the updated health record to the child's birth parent upon reunification, to the identified caregiver upon achieving permanency, the family court as part of the court report, and to the youth upon exiting placement at the time of case closure. These provisions exist in DYFS policy. OCA proposes that they be codified to ensure adherence to Federal guidelines and agency policy.

RESPONSE: The Division thanks the OCA for its support.

The frequency of updating the health record is addressed in N.J.A.C. 10:133D-2, Case Plan. N.J.A.C. 10:133D-2.7(b)16 states that the health record is part of the written case plan. N.J.A.C. 10:133D-2.4 states when the case plan is developed and revised. It is revised at least once every six months.

42 U.S.C. §675(5)(D) requires the child's health record to be supplied to the child when the child leaves out-of-home placement after reaching the age of majority. 42 U.S.C. §675(5)(E) requires that the case plan shall be available for court review. The Division agrees to add that the Division will give the child's health care record to those identified in the comment. This amendment will bring these rules into agreement with the Federal statutes.

The Division agrees that the additional persons noted in the comment need the child's medical history at the points in time specified in the comment.

N.J.A.C. 10:122D-2.5(d)

11. COMMENT: The OCA is encouraged by the inclusion of a requirement for minimum semiannual dental examinations for children age three and older.

RESPONSE: Thank you for supporting this amendment.

N.J.A.C. 10:122D-2.5(f) and (g)

12. COMMENT: While the OCA believes that mental health assessments should be provided to all children initially entering out-of-home placement in accordance with best practice guidelines put forth by the Child Welfare League of America, the American Academy of Pediatrics and the American Academy of Child and Adolescent Psychiatry

(AACAP), at a minimum, New Jersey's rules must reflect language that identifies the Division's obligation to ensure a mental health evaluation for those children with a suspected need and the Division's responsibilities to ensure the child receives necessary follow-up care and treatment. The prevalence of mental health and behavioral issues in children residing in out-of-home placement is well-researched and documented. It is estimated that as many as 50 to 80 per cent of children who enter out-of-home placement experience moderate to severe mental and behavioral health needs. See Child Welfare League of America, Thriving in the Community (May 2008).

Recent studies further suggest that, "prescriptions for psychotropic medications for youth in foster care in the United States in general far exceed prescriptions made to similar Medicaid insured youth who qualify because of low family income." Maria Bishop, Concomitant Psychotropic Medication Over-prescribed in Foster Care Youth Presented at AACAP, (October 31, 1997). It is also estimated that, "More than 75% of the psychotropic medication use for children is 'off label,' meaning that the medication is prescribed for a purpose other than its approved use as identified on the label." Psych Central, August 4, 2008.

Currently, N.J.A.C. 10:122C-7.3 and 7.4 detail the responsibilities of the resource family parent concerning psychotropic medication, but do not identify the Division's responsibilities for ensuring compliance with standards and adherence to these provisions. Current regulations do not provide an informed consent procedure for the use of psychotropic medications. The absence of such a process results in no uniform mechanism for obtaining informed consent from the youth, when appropriate. The State of Illinois has an entire subsection of their regulations dedicated to the "Administration of Psychotropic Medications to Children for Whom DCFS is Legally Responsible." Illinois Title 89, Chapter III, Subchapter b, Part 325. OCA urges the Department of Children and

Families to consider researching the practices and regulations established in other states and to create a new subsection in these rules to govern the administration of psychotropic medications.

OCA suggests the following language (additions in boldface):

- (e) The Division representative shall assure that the child receives a medical examination at least annually after the initial medical examination performed at the time of placement and a dental examination at least semi-annually for each child age three years and older. The type and frequency of the examinations shall be based on the child's age and medical needs. At a minimum, the child's examinations shall comply with the Early and Periodic Screening and Diagnostic Treatment periodicity schedule in accordance with N.J.A.C. 10:54-5.10 through 5.13. The Division representative shall assure that a child with a suspected mental health need receives a mental health assessment and such follow-up care as appropriate for the needs identified.
- (f) The out-of-home placement provider shall be responsible for arranging and providing care to meet the child's health needs, including, but not limited to, medical and dental examinations, mental health services, ongoing care, and follow-up care, as agreed to with the Division representative, and shall provide the Division representative with information concerning the child's health care, mental health care, and needs.

RESPONSE: The Division agrees to the Office of the Child Advocate's suggestion to research the regulations of other states regarding informed consent for and administration of psychotropic medications by children in out-of-home placement. The Division has begun researching the regulations of other states, but has not completed the project. The

Division will address the issue in a future rulemaking if all the available information regarding the administration of psychotropic medications to children so indicates.

N.J.A.C. 10:122D-2.5(g)

13. COMMENT: The Office of the Public Defender applauds the amendment, which requires the Division representative to share health care information with the child's parents and the out-of-home placement provider. The OPD encourages consideration of including a time frame in this subsection that would specify the health care information be shared with out-of-home placement providers at the time of a child's placement or as soon as practicable. This will further ensure that the health care needs of children in care are met. Add the following language (additions in boldface):

(g) The Division representative shall share health care information concerning the child with the child's parents, and the out-of-home placement provider at the time of the child's placement or as soon as practicable.

RESPONSE: The Division thanks the Office of the Public Defender for its support. The Division agrees to include the suggested amendment to recodified subsection (h), as it clarifies what the Division has already stated in the subsection.

N.J.A.C. 10:122D-2.6(f)1

14. COMMENT: The proposed readoption fails to address the time frames in which school enrollment must be achieved. The OCA is concerned that many children are not enrolled in school as quickly as they should be following their placement. The law requires timely enrollment in an appropriate school setting. See N.J.A.C. 6A:22-4.1(g),

(h) and (i). According to DYFS policy, “all children in out-of-home placement must be registered for and attending school within 72 hours of initial placement and re-placement. The assigned DYFS Worker or resource parent contacts the local school district to determine how and where to register a child.”

OCA recommends that the paragraph be amended as follows:

1. Ensure that the child is enrolled in school, if age appropriate *within 72 hours of initial placement and re-placement.*

RESPONSE: The Division recognizes the importance of prompt enrollment in school for children who have been placed. The Division does not believe that it is practical to regulate this time frame, as school enrollment is sometimes beyond the Division’s control. Enrolling a child in school within 72 hours of placement over the summer or during school vacations may be difficult to impossible.

N.J.A.C. 10:122D-2.7(f)

15. COMMENT: Foster and Adoptive Family Services (FAFS) is pleased to see an amendment to reference N.J.A.C. 10:133H-5, Tuition Program. Awareness of and access to a program such as this will make a significant difference in the future of many of the children who experience both, having to be in resource care and the turmoil that leads to the placement becoming necessary.

RESPONSE: The Division is pleased to increase awareness of and access to the Tuition Program.

General Comment

16. COMMENT: FAFS is in agreement with the readoption, with amendments, of N.J.A.C. 10:122D. Children in out-of-home placements must be guaranteed the provision of services necessary to improve and maintain their state of wellbeing and have the ability to have contact with their parents, siblings and other family members.

RESPONSE: The Division thanks FAFS for its support.

Summary of Agency-Initiated Changes:

The Division is correcting a typographical error at N.J.A.C. 10:122D-2.6(a) by removing a word that is not part of the sentence, services.

The Division is correcting a typographical error at N.J.A.C. 10:122D-2.7(e), where the word “skills” was capitalized in error.

The Division is correcting the heading of N.J.A.C. 10:122D-2.7, from “child” to “children,” to make the title read correctly. The Division is also making a technical correction to subsection (e).

Federal Standards Statement

The rules readopted with amendments are not in excess of those imposed by Federal law. Title IV-B of the Social Security Act, 42 U.S.C. §622 requires that the State have a plan for child welfare services. 42 U.S.C. §622(b)(8)(A)(iii) requires that plan to include assurances that the State is operating a service program to help children return to their families or to be placed for adoption, with a legal guardian, or in another permanent living arrangement. The readopted rules with amendments codify those services.

42 U.S.C. §622(b)(15) requires that the State Plan describe “...how the state actively consults with and involves physicians or other appropriate medical professionals in assessing the health and well-being of children in foster care under the responsibility of the state; and determining appropriate medical treatment for the children...” These rules state that involvement with medical professionals is required.

Title IV-E of the Social Security Act, 42 U.S.C. §§670 et seq., requires the State to have a plan, which requires that each foster child whose foster care payment is partially funded by Title IV-E funding be provided with numerous services.

42 U.S.C. 671(a)(15)(B)(ii) requires that the State make reasonable efforts to return a child safely to the child’s home. Reasonable efforts to return a child home include visits with the parents or other relatives who may provide a home for the child. The rules requiring visitation do not exceed the Federal requirements for reasonable efforts.

42 U.S.C. §671(a)(16) requires that each child in foster care have a case plan. 42 U.S.C. §675(1)(B), (C), and (D) define a case plan as including information about services to assure that the child can return to his or her own safe home or a permanent placement to address the child’s needs while in foster care, the child’s health and education records, and information about services which prepare the adolescent for independent living. These rules require the Division to provide services to each child in out-of-home placement and to maintain written health care, education and self-sufficiency (that is, independent living) services records in keeping with the Title IV-E requirement.

42 U.S.C. §671(a)(22) requires that the State develop and implement standards to ensure that children in foster care are provided quality services to protect the children’s

safety and health. N.J.A.C. 10:122D-2 requires that services are provided to meet the needs of a child in foster care, which is in keeping with the Federal requirement.

The rules comply with the Foster Care Independence Act of 1999, Pub. L. 106-169, 42 U.S.C. §677, regarding self-sufficiency skills as part of the independent living program. N.J.A.C. 10:122D-2.7 coordinates with purposes of the John H. Chafee Foster Care Independence Program, 42 U.S.C. §§677(a)(1) through (4). To summarize, the purposes are to help children likely to remain in out-of-placement until 18 years of age to become self-sufficient by providing services, helping them to receive education and training, helping them to enter postsecondary training and education institutions, and providing emotional support through mentors.

Full text of the readoption can be found in the New Jersey Administrative Code at N.J.A.C. 10:122D.

Full text of the adopted amendments follows (additions to proposal indicated in boldface with asterisks *thus*; deletions from proposal indicated in brackets with asterisks *[thus]*):

CHAPTER 122D

SERVICES FOR CHILDREN IN OUT-OF-HOME PLACEMENT

SUBCHAPTER 1. VISITS BETWEEN THE CHILD AND THE CHILD'S FAMILY

10:122D-1.1 Purpose

(a) The purpose of this subchapter is to ensure that each child placed by the Division in out-of-home placement shall have the opportunity to visit with parents, siblings and interested relatives. Visits with parents, siblings and other relatives may serve to:

1. Reinforce the child's identity;
2. Promote the child's need for stability, consistency, and permanency;
3. (No change.)
4. Assess the parent's and other relative's motivation and ability to care for the child;
- 5.-6. (No change.)

(b) The frequency and duration of visits are dependent on the purpose of the visits, the case goal and case plan and practical considerations of all parties. Visits that are frequent and of long duration are beneficial for most children placed in out-of-home placement and facilitate movement toward achieving *[the]* *a* case goal *[of reunification]* *that establishes permanency*. The frequency and duration specified in each child's visitation schedule is a professional social work decision, which shall be made by the Division representatives, with full input from all those affected by the visitation plan. Unless otherwise limited by conditions set forth in N.J.A.C. 10:122B-1.4

and 10:122D-1.15, for most children in out-of-home placement, the goal is to hold a visit every week for a period as long in duration as possible.

10:122D-1.2 Scope

The provisions of this subchapter shall apply to each child placed by the Division in an out-of-home placement, his or her parents, siblings, interested relatives, out-of-home placement provider, and the Division.

10:122D-1.3 Definitions

The definitions in N.J.A.C. 10:122B-1.3 and 10:122C-1.3 are hereby incorporated in this subchapter by reference.

10:122D-1.4 Visitation plan

(a) A written visitation plan shall be developed to identify the type and frequency of visits to be instituted for every child in out-of-home placement unless otherwise directed by the court. The visitation plan is included in the case plan, in accordance with N.J.A.C. 10:133D-2.7(b)7.

(b) (No change.)

(c) The visitation plan shall give full consideration to the child's safety.

(d) (No change.)

10:122D-1.5 Developing the visitation plan

(a)-(c) (No change.)

(d) For a child placed with a resource family parent or in shelter care, the visitation plan shall be developed through negotiation and agreement by the Division representative, the parents, the child, and other parties involved, such as relatives, a former resource family parent interested in visiting the child, siblings, and their

representatives. For each child placed in a residential child care facility, the treatment team develops the visitation plan in accordance with N.J.A.C. 10:127-6.1 and 6.6. For each child placed in a group home, the treatment team develops the visitation plan in accordance with N.J.A.C. 10:128-6.1 and 6.6.

(e) (No change.)

(f) The Division representative shall encourage the out-of-home placement provider to participate in developing the visitation plan.

(g) The out-of-home placement provider shall be consulted for information pertinent to visitation.

10:122D-1.6 Distribution of the visitation plan

The Division representative shall give a copy of the visitation plan to the parent, the out-of-placement provider, the child, when of an appropriate age, and other parties, including siblings, who are involved in developing the visitation plan, and their representatives.

10:122D-1.7 Renegotiation of the visitation plan

(a) The Division representative shall renegotiate the visitation plan with all parties involved no less often than every six months.

(b) The Division representative shall also renegotiate the visitation plan:

1.-3. (No change.)

10:122D-1.8 Components of the visitation plan

(a) The visitation plan shall include the following:

1.-4. (No change.)

5. The roles of participants other than the child;

6.-10. (No change.)

10:122D-1.9 Locations for visits

- (a) (No change.)
- (b) Visits may also take place in the out-of-home placement, with the out-of-home placement provider's permission.
- (c) Visits may take place in a Division office when:
 - 1. Necessary to protect the child;
 - 2.-3. (No change.)

10:122D-1.10 Determination of whether visit is to be supervised

- (a)-(b) (No change.)
- (c) If visits will be supervised, the plan shall contain a statement of the reason supervision is required. Reasons for the supervision of visits may include:
 - 1. Facilitating interactions between the parent and the child;
 - 2. (No change.)
 - 3. Mediating conflict between the parent and the child; and
 - 4. Providing protection for the child.

10:122D-1.11 Supervision of visits

- (a) Family, friends or others with whom the visitor and child feel comfortable may provide supervision with the agreement of all parties.
- (b) (No change.)
- (c) A Division representative may supervise visitation only under the following circumstances:
 - 1. The Division finds that supervision by a Division representative is necessary to protect the child;
 - 2. (No change.)

3. The parent or child wants supervision by a Division representative;
4. The Division representative does not have enough information to determine that supervision is not needed; or
5. (No change.)

10:122D-1.13 Transportation for visits

- (a) The Division representative shall provide or arrange for transportation of the child to the visit.
- (b) (No change.)

10:122D-1.14 Standards for the visitation plan

- (a) Except as limited in N.J.A.C. 10:122D-1.15(a), the visitation plan shall establish that:
 1. The first visit between the child and parent shall be scheduled to occur as soon as possible, within five working days of the date of initial placement;
 2. (No change.)
 3. The frequency and length of each visit shall be based upon the needs of the child, the parent, and other involved parties. Special consideration shall be given to the need for pre-school children to have frequent visits since their sense of time is different than that for older children or adults;
 4. Overnight and weekend visits with the family shall be scheduled to occur frequently when the family can assume the increased child care responsibility and when the plan is to return the child to them;
 - 5.-6. (No change.)

10:122D-1.15 Reasons to limit visits

(a) A reduction to the visitation schedule may be made for any of the following reasons:

1. The visit will be physically or psychologically harmful to the child even with supervision. This determination shall be based on:

i.-iii. (No change.)

iv. A pending or ongoing Division investigation of allegations that the child has been harmed by the visitor; or

v. The child's report of a harmful or potentially harmful situation;

2. The child requests limited visits when the case goal is not reunification, whether or not the visits are seen as harmful;

3. (No change.)

4. The parent chronically misses scheduled visits despite the Division's efforts to advise of the importance of attending visits for the parent and the child;

5. A court order, including one that terminated parental rights, which prohibits visits or specifies a different schedule of visits; or

6. The visitor appears to be under the influence of drugs or alcohol.

(b) A supervisor shall review and approve or disapprove any reduction in the frequency or duration of visits, in accordance with any applicable court order.

(c) The Division representative shall inform the parent, child, and any other affected person in writing of the reason for the reduction.

(d) The Division representative shall assist the family or other parties to eliminate the causes for the limitation of visits when the conditions can be changed in order to increase the visits.

SUBCHAPTER 2. SERVICES TO CHILDREN IN OUT-OF- HOME PLACEMENT

10:122D-2.1 Purpose

(a) The purpose of this subchapter is to identify the services that the Division shall provide to a child in out-of-home placement in its efforts to:

1. Provide the child with safe care while in out-of-home placement;
2. Meet the child's physical, psychological, and other developmental needs;
3. Assure the child's well-being;
4. Help the child to understand the reasons for his or her out-of-home placement, the case goal, and to adjust to being a child in out-of-home placement; and
5. Achieve the case goal, which reflects the permanency plan for the child.

10:122D-2.2 Scope

The provisions of this subchapter shall apply to each child in out-of-home placement, his or her out-of-home placement provider, his or her family and the Division.

10:122D-2.3 Definitions

The definitions in N.J.A.C. 10:122B-1.3 and 10:122C-1.3 are hereby incorporated into this subchapter by reference.

10:122D-2.4 Case management

(a) The Division representative shall have face-to-face and other contact with the child, out-of-home placement provider, parent and other

interested parties according to N.J.A.C. 10:133D-3 and which is written in the case plan in order to:

- 1.-2. (No change.)
 3. Assist the child and out-of-home placement provider to establish and maintain an ongoing and supportive relationship for the duration of the child's placement;
 4. Update the child, out-of-home placement provider, parents and other parties on the progress toward achieving the case goal *, consistent with the confidentiality provisions of N.J.S.A. 9:6-8.10a and N.J.A.C. 10:133G*;
 5. Facilitate visits in accordance with the case plan between the child, parent, siblings and other interested relatives. See N.J.A.C. 10:122D-1, Visits between the child and the child's family; and
 6. (No change.)
- (b) The Division representative shall have face-to-face contact with the parent, when applicable, the out-of-home placement provider, and the child in accordance with N.J.A.C. 10:133D-3.7, 3.8, and 3.9.

10:122D-2.5 Health care services

- (a) The Division representative shall make every reasonable effort to assure that each child in out-of-home placement receives appropriate and necessary health care, including mental */behavioral* health services.
- (b) For each child initially entering out-of-home placement, the Division representative shall obtain a pre-placement assessment at the time of placement. The Division representative shall establish a health care record for each child and shall provide the out-of-home placement provider with a health

care record, which documents health information concerning the child, including, but not limited to:

1. The names and addresses of the child's health care providers;
2. A record of the child's immunizations;
3. The child's known medical problems, if any*, including the results of any lead tests*;
4. The child's medications, if any; *[and]*
5. The child's allergies, if any *[*] * *.*
- *6. The child's birth and developmental history;
7. The family health history, if known and appropriate, in accordance with Federal regulations; and
8. The child's mental/behavioral health needs.*

(c) The Division representative shall maintain a health care record for each child. The Division representative shall review and update the child's health record at the time of each placement into out-of-home placement*.*
[and]

(d) The Division representative shall provide the updated record to *.* *[the]*

- *1. The* out-of-home placement provider*[*] * *.*
- *2. The child's parent upon reunification;
3. The adoptive parent or legal guardian;
4. The family court as part of the court report; and
5. The child upon exiting out-of-home placement at the time his or her case is closed*.

[(d)] *(e)* The Division representative shall ensure that the child shall receive a full medical examination within 60 days of placement.

[(e)] *(f)* The Division representative shall assure that the child receives a medical examination at least annually after the initial medical examination performed at the time of placement and a dental examination at least semi-annually for each child age three years and older. The type and frequency of the examinations shall be based on the child's age and medical needs. *The Division representative shall assure that each child with a suspected mental/behavioral health need receives a mental/behavioral health assessment and identified follow-up care.* At a minimum, the child's examinations shall comply with the Early and Periodic Screening and Diagnostic Treatment periodicity schedule in accordance with N.J.A.C. 10:54-5.10 through 5.13.

[(f)] *(g)* The out-of-home placement provider shall be responsible for arranging and providing care to meet the child's health needs, including, but not limited to, medical and dental examinations, ongoing care, *mental/behavioral health services* and follow-up care, as agreed to with the Division representative, and shall provide the Division representative with information concerning the child's health care *, including mental/behavioral health care,* and needs.

[(g)] *(h)* The Division representative shall share health care information concerning the child with the child's parents, and the out-of-home placement provider *, at the time of the child's placement or as soon as practical*.

10:122D-2.6 Educational services

(a) The Division representative shall make every reasonable effort to assure that every child in out-of-home placement *[services]* receives an

education appropriate to his or her abilities as provided for under State laws governing compulsory education and education for disabled children.

(b) The Division representative shall develop an education record for each child initially entering out-of-home placement, who is subject to the State laws governing compulsory education, see N.J.S.A. 18A, generally.

This record shall include, but not be limited to:

1. The names and addresses of the child's educational providers;
2. The child's grade level performance;
3. The child's school record; and
4. Assurance that the child's placement in out-of-home placement takes into account proximity to the school in which the child was enrolled at the time of placement.

(c) The Division representative shall provide the out-of-home placement provider with the child's education record at the time of initial placement.

(d) The Division representative shall review and update the child's education record at the time of each out-of-home placement and shall provide the updated record to the out-of-home placement provider.

- (e) The out-of-home placement provider shall:
1. Make every effort to ensure that the child attends school regularly;
 2. Encourage good study habits;
 3. Monitor the child's academic progress; and
 4. Inform the Division representative of the child's academic progress.

(f) The Division representative shall:

1. Ensure that the child is enrolled in school, if age appropriate. If necessary, the Division representative shall give the out-of-home placement provider authorization to enroll the child in school;
2. Maintain and update the education record regarding the child's progress in school;
3. Coordinate, as appropriate, activities among the school personnel, the out-of-home placement provider, and the parent;
4. Inform the parent of the child's school progress and of the parent's right and responsibility to be involved in the child's education; and
5. Refer the child for a child study team evaluation, as needed, in accordance with N.J.A.C. 6A:14-3.3(a)3ii.

10:122D-2.7 Self-sufficiency skills for adolescent *[child]* *children*

(a) The Division representative, in consultation with the out-of-home placement provider, the child, the parent and other significant adults, shall develop a written plan to prepare the child for self-sufficient living and shall reevaluate the plan at least yearly.

(b) The plan shall be developed for each child in out-of-home placement:

1. Within six months of the date of placement for those entering out-of-home placement at age 14 or older; or
2. No later than age 14, for those already in out-of-home placement.

(c) The plan shall be based upon an assessment of the child's strengths, resources, interests and needs.

(d) The plan shall outline the necessary skills the child must master to achieve self-sufficiency and the responsibilities of the Division and other parties to assist the child to develop these skills.

(e) The Division representative shall identify at least one significant adult in the child's life who will function as an adult advisor to the child to assist in the development of the plan and the life *[Skills]* *skills* needed by the child. The adult advisor may be the resource family parent.

(f) The Division representative shall refer the child to resources for post-secondary educational opportunities, as requested by the child and in accordance with N.J.S.A. 9:17B-2 and N.J.A.C. 10:133H-5, Tuition Program.

10:122D-2.8 Other services to children in out-of-home placement

(a) In addition to the basic services of case management, food, clothing, shelter, education, health care, and self-sufficiency skills, the Division may use other services, which meet a child's individual needs.

(b) When specific service needs are identified, the Division representative shall arrange for appropriate community resources to provide the service to the child in a timely fashion, as the services are available.

(c) When there are insufficient child welfare services available to meet the child's needs, the Division is responsible for encouraging and promoting the development of the needed services in accordance with the provisions of N.J.S.A. 30:4C-1, 3 and 4.